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OGC/B-8815(a)

19 February 1959

MEMORANDUM FOR: Chief, Far East Division

ATTENTION :



SUBJECT : United States Laws Protecting Civil Service from Political Pressure

1. You have asked for a summary of U. S. legislation which suggests means to protect the non-partisanship of internal security services. Our delay in replying is occasioned in part by the fact that we had hoped to be able to obtain compilations of certain laws which tend to protect civil servants from political pressure. Unfortunately nothing of this kind is now in print.

2. It must be recognized that the internal security services of the United States are protected by law from partisan political pressure only to the extent that a great proportion of employees of these services and indeed of all Government departments and agencies are subject to the Civil Service Act and related laws and regulations. At the same time, the heads of departments and agencies and their senior subordinates are normally political appointees and in many cases subject to removal at the pleasure of the President. Accordingly, the direction of all departments and agencies within the executive part of the Government is a matter subject to political decisions. The fact that most employees of the Government are appointed and retained on the basis of merit and protected by the Civil Service laws, gives a degree of non-partisanship to the activities of all Government departments. In the long run, however, their policies can be politically determined by the executive and his appointees.

3. Even the limited protection from political pressure offered by our Civil Service laws is effective in a large part because of the traditions of the Governmental and political system within which those laws work. The same statutes transplanted into another political system might provide only theoretical protection. The ability of any country to operate a politically non-partisan internal security service or indeed any other department of Government depends on the attitude of those in power and their effective opposition as well as the constitution and constitutional processes and the independence, ability and fair-mindedness of the judiciary more than it does on the written law.

4. The particular problem with which you are concerned, i.e. pressure by the executive on the police to make political arrests is one to be alleviated only in part by laws shielding the internal security service from the whims of the executive. More important are constitutional and/or statutory guarantees of the freedom of the individual citizen. Such constitutional provisions as those concerning equal protection of the laws, self-incrimination, ex-post facto laws, double jeopardy and habeas corpus as well as strictly enforced rules of evidence and judicial procedure, while designed primarily to protect individual rights, give more protection to the internal security services from edicts of the executive of the kind with which you are concerned than do laws designed to keep the civil service non-partisan.

5. Attached are copies of the Civil Service Act and other laws and regulations which aid in giving us a relatively non-partisan civil service. In addition to the material attached, other important laws in this field include the Hatch Act (5 USCA 118 i et seq.) and the various bribe statutes (18 USCA Chapter 11).

Signed

[Redacted Signature]

Office of General Counsel

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